

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re: Methyl Tertiary Butyl Ether (“MTBE”)  
Productions Liability Litigation

**This document refers to:**  
All cases.

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Master File C.A. No.  
1:00-1898 (SAS)  
MDL 1358

**DECLARATION OF  
JOSEPH GUARINO IN  
OPPOSITION TO GETTY  
PROPERTIES CORP.’S  
MOTION FOR  
SUMMARY JUDGMENT**

Joseph Guarino, declares the following under the penalties of perjury:

1. I am the Manager of Product Supply, Operations and Scheduling of Getty Petroleum Marketing Inc. (“GPMI”) and have been employed by GPMI since it began operations in March 1997.
2. From October 22, 1985 to March 1997, I was employed by Getty Petroleum Corp. (“Getty Petroleum”) as the Accounting and Terminal Supervisor.
3. Beginning in 1985, I was stationed at the Getty Petroleum office located at 19 Terminal Road, East Setauket, New York. The property was located at the Northville Terminal.
4. Getty Petroleum was a tenant at the property for the duration of its occupancy, leasing the property directly from Northville.
5. The primary purpose of the 19 Terminal Road office was to manage Getty Petroleum’s petroleum distribution efforts in the area. Getty Petroleum rented office space, a two bay garage and a parking area. The two garage stalls were used by Getty Petroleum personnel to perform maintenance on gasoline delivery trucks.

6. Beginning some time prior to 1985, there were two above ground terminal gasoline storage tanks at the Northville Terminal dedicated solely to Getty Petroleum. Only Getty Petroleum delivery trucks would load gasoline from these two tanks. The gasoline was then delivered to Getty stations in the area.

7. Beginning in 1986, Getty Petroleum ceased using the two tanks. Thereafter, Getty Petroleum loaded gasoline from various other terminal tanks that also delivered gasoline to other distributors.

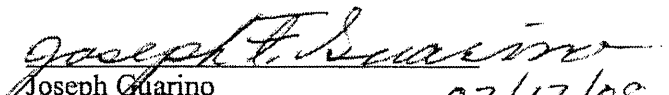
8. In addition, two underground heating oil tanks, an underground gasoline storage tank and an underground diesel tank were located at the property. The heating oil tanks were owned by Northville. The diesel and gasoline tanks were used to fuel Getty Petroleum maintenance and delivery trucks. Getty Petroleum did not sell gasoline to motorists at this location. The gasoline and diesel tanks were installed by Getty Petroleum and removed prior to the termination of Getty Petroleum's tenancy at the property.

9. In or about 1987, a substantial discharge from the Northville Terminal was discovered. As a result, the loading racks were shut down and Getty Petroleum no longer loaded gasoline at the Northville Terminal.

10. Nevertheless, Getty Petroleum continued to maintain the office and garage space at 19 Terminal Street for several years thereafter. The office continued to manage area distribution efforts. Gasoline distribution was based out of the nearby Holtsville Terminal.

11. As of November 30, 1992, Getty Petroleum vacated the property. The lease for the property formally terminated in December, 1992. Getty Petroleum did not use the property after that date for any purpose.

12. Attached as GPMI Exhibit 13 is a copy of GPMI's AS-400 computer system "Property Master Inquiry" screen for the 19 Terminal Road property (Getty location 58240 and identified as Upper Sheep Pasture Road, South Setauket, New York). This electronic record, which GPMI maintains in the ordinary course of its business, confirms that Getty Petroleum's lease for this location terminated on December 21, 1992.

  
Joseph Guarino 07/17/08